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A SECTION-BY-SECTION ANALYSIS OF S. 534

THE ADMINISTRATION'S PROPOSED WATER RESOURCES DEVELOPMENT ACT OF 1985

TOGETHER WITH

A LETTER OF TRANSMITTAL

MARCH 1985

Printed for the use of the Committee on Environment and Public Works

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LETTER OF TRANSMITIAL

DEPARTMENT OF THE ARMY,
Washington, DC, February 20, 1985.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes" (the Water Resources Development Act of 1985).

This proposal, in conjunction with legislation for the inland waterway system which is being transmitted separately, represents most of the Department of the Army's Civil Works Legislative Program for the 99th Congress. The Office of Management and Budget advises that these proposals are in accord with the President's program. The Department of the Army recommends that Congress enact these propsals.

Purpose of the legislation

As you know, the last water resources development bill for the Corps of Engineers was enacted in 1976. Since that time new construction funding has fallen off by more than two-thirds in constant dollars. This decrease has resulted not from a paucity of needed and worthwhile projects, but rather from a growing realization by recent administrations and the Congress that we need to restructure the way projects are funded before we commit scarce Federal dollars to them.

Virtually every study of Federal water resources development projects undertaken in the last 10 years, including studies by the General Accounting Office and the Congressional Budget Office, has concluded that the traditional Federal subsidy for water projects is no longer justified. Since the administration of Franklin Delano Roosevelt, the executive branch has been recommending increases in user charges or revisions in cost sharing for Federal water projects. Despite this urging, the formulas for cost sharing have remained largely unchanged.

During the last Congress, the House and Senate toiled to develop an omnibus water bill. All of us who are interested in meeting the Nation's water resources needs commend the chairmen and ranking members of the committees and subcommittees with legislative jurisdiction over this issue. While we admire the effort that went into the House and Senate omnibus bills, we felt that the proposals that were developed fell short of what would be acceptable in the

cost-sharing arena and went too far in authorizing projects that were not economically justified.

This year it is imperative that Congress start anew on this difficult issue. In an effort to work toward an acceptable consensus, we have developed two separate bills representing the administration's concept of justifiable and warranted water resources legislation. The first bill, which is enclosed, consists of five titles that address ports and harbors, cost sharing, project authorizations, project modifications, and various general provisions. The companion bill, transmitted separately, authorizes improvements on the Nation's inland waterways system. Perhaps the most notable features of these bills, and the ones that we in the administration believe are essential to a satisfactory resolution of this issue, are the provisions for recovery of a portion of the Federal costs for harbor and inland navigation improvements. Both bills include authorization of projects which have been reviewed by the executive branch. We will also support inclusion of other projects receiving favorable executive branch recommendations before enactment of this legislation.

As discussed below, we believe that our proposals for cost recovery are fair and reasonable. With respect to the Nation's ports and harbors addressed in the enclosed bill, we believe that the operators of such ports and harbors are themselves in the best position to determine how to meet the costs associated with their projects. Therefore, our proposal would enable the Federal Government to collect a portion of port and harbor improvement costs directly from a local project sponsor. That sponsor, in turn, would be authorized to impose some form of user fee on users of that specific port. Any fees imposed by a sponsor would be subject to approval by the Secretary of the Army.

As noted above, the water resources development bill consists of five titles. Title I is a comprehensive proposal addressing the needs of port and harbor development and operation. For new construction, it establishes a non-Federal share of 70 percent of the cost of harbors with depths of 45 feet or less, and 100 percent of the incremental costs for increasing harbor depths beyond 45 feet. Total and incremental costs would be determined by analyzing a variety of site-specific factors. The primary of these, of course, would be the volume of material to be excavated. Other factors would include:

—the nature of the material being excavated, which affects the rate of excavation and the stability of side slopes;
—the channel depth, which affects channel length and associated dredging efficiencies;
—the availability and accessibility of disposal areas for dredged material;
—the presence of physical obstructions;
—other associated construction improvements such as jetties and shore-side facilities;
—the extent and scope of needed relocations;
—necessary environmental protection or mitigation features;
—assignment of costs to mobilization and demobilization requirements in relation to depth; and,
—prevailing weather and sea conditions.

Because of these variables and their effect on construction costs, total project costs must be calculated or estimated on the basis of a comprehensive engineering analysis which considers factors applicable to the individual project. This analysis would be prepared to determine incremental or total construction costs, as the case requires.

With regard to operation and maintenance at ports and harbors, the non-Federal share of costs would be calculated on the basis of project depth and use. For harbors having depths of 14 feet or less, and for harbors having depths of more than 14 feet but handling less than the 1 million tons of commercial cargo, the non-Federal share would be 70 percent. For harbors with depths of more than 14 feet and with commercial tonnage of 1 million tons or more, the non-Federal share would be 100 percent up to a limit calculated on the basis of 125 percent of the national average cost per ton for operating and maintaining all port and harbor projects.

Title I further provides that for both new construction and operation and maintenance, the value of "traditional" local cooperation requirements, such as performing relocations and providing necessary real estate interests, shall be credited to the non-Federal share of project costs. Title I also establishes a Port and Harbor Improvement Task Force composed of representatives from a spectrum of interests having ties to ports and harbors. The task force will advise the Secretary on port and harbor improvement issues. Significant features of title I are the provisions for the "fast-tracking" of projects to be undertaken by the Federal Government once a project sponsor has agreed to cost sharing, and provisions for expedited environmental and permit review for projects to be undertaken directly by non-Federal interests. Finally, title I authorizes 17 port and harbor improvement projects.

The second title establishes non-Federal cost-sharing requirements for all purposes other than navigation. In order to better match costs to benefits, the new requirements generally increase the non-Federal share over that now required. Title III of the bill authorizes 40 projects—most of which are for flood damage reduction purposes—subject to the cost-sharing requirements of title II. The fourth title modifies several project authorizations. Finally, title V contains several general provisions designed to improve the corps' program execution. Title V also permits cooperative arrangements between the corps, the Department of Energy, and local interests when Federal hydropower development is proposed at corps projects. Project sponsors paying the costs of hydropower facilities would receive the power from such facilities. Also included are provisions concerning procedures for deauthorizing corps projects and studies.

With your help, and the help of the leadership in the other body, I believe we can reach a consensus on these important pieces of legislation. It will not be easy; much hard work remains to be done. Nevertheless, I am confident that we can, in good faith, overcome the differences that remain.

Cost and budget impacts

Enactment of the draft Water Resources Development Act would result in an increase in budget authority for the Department of the

Army in the amount of approximately $3 billion in terms of new construction authority. The provisions for cost recovery from project sponsors would, however, result in a substantial decrease in the level of Federal funding for Corps of Engineers water resources development activities.

Environmental and civil rights impacts

Enactment of the enclosed draft bill is not expected to have any significant environmental or civil rights impacts. The individual projects proposed for authorization have all been reviewed to determine any potential environmental impacts in accordance with the National Environmental Policy Act and other applicable environmental laws and regulations.

Sincerely,

ROBERT K. DAWSON,
Acting Assistant Secretary of the Army,
(Civil Works).

SECTION-BY-SECTION ANALYSIS [1]

A BILL To authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes

SECTION 1

This section provides that the act may be cited as the Water Resources Development Act of 1985.

SECTION 2

This section gives the definition of terms pertinent to the act.

TITLE I—PORTS AND HARBORS DEVELOPMENT AND COST SHARING

This title contains provisions for increased non-Federal participation in the implementation, operation, and maintenance of feasible port and harbor projects while retaining substantial Federal involvement in those activities. It recognizes the permanent Federal interest in defense, national security, international trading, and the continued availability of a navigation infrastructure essential to the national economic well-being.

SECTION 101

This section includes definition of terms used in title I.

SECTION 102

Section 102 would establish non-Federal cost sharing requirements for operation and maintenance costs for port and harbor projects starting in October 1985.

The following percentage of the average annual cost of operation and maintenance assigned to navigation purposes would be borne by the project sponsor:

(a) projects 14 feet deep or less: 70 percent;

(b) projects greater than 14 feet deep, but with less than 1,000,000 tons of commercial tonnage annually: 70 percent;

(c) all other projects: 100 percent, except that the percentage will be reduced for projects where costs are greater than 125 percent of the national average, based on cost per ton.

Each July 1, beginning in 1985, the Secretary will publish a list of all port and harbor projects and the amount of the non-Federal share for the next fiscal year. The list would include, for each project, the average annual operation and maintenance cost based on the anticipated cycle of operation and maintenance, the annual commercial tonnage, and the non-Federal share of costs. Determi-

[1] The material contained herein was prepared by the administration.

nations of the Secretary are final and within the discretion of the Secretary.

SECTION 103

This section establishes cost sharing for post-authorization planning and construction of port and harbor projects for which funds for physical construction are obligated on or after October 1, 1985. A non-Federal sponsor would pay 70 percent of total construction costs of all ports and harbors with depths of 45 feet or less, and 100 percent of the incremental cost of harbors deeper than 45 feet. The Federal Government would pay the remaining 30 percent of the cost of general navigation features for harbors with depths of 45 feet or less.

For projects which involve deepening both above and below 45 feet, an allocation of costs must be made to determine the incremental costs of deepening below 45 feet. This will require an estimate of the cost of the project if it were dredged to a depth of 45 feet. This estimate would be subtracted from the actual cost of the authorized project and the remainder will require 100 percent non-Federal cost sharing.

SECTION 104

This section requires a written agreement between the Secretary and the local sponsor prior to initiation of construction and initiation or continuation of operation and maintenance of any project. The local sponsor must provide the non-Federal share of construction and operation and maintenance cost in accordance with a schedule established by the Secretary which ensures that local cooperation and funds are available as needed for project implementation. The non-Federal amounts would be deposited in the Treasury as part of the existing River and Harbors Contributed Fund account and would be available on a permanent appropriation basis for use at projects for which the funds were provided.

SECTION 105

Section 105 provides that the project sponsor would provide traditional local cooperation requirements which would be credited toward the non-Federal share of costs, both for construction and operation and maintenance. Local cooperation requirements include, but are not limited to, provision of lands, easements, right-of-way, necessary relocations, and any necessary and suitable dredged material disposal areas. This section also requires that the cost of acquisition and preparation of disposal areas be allocated between construction and operation and maintenance of the Federal project as well as to disposal of dredged material by non-Federal interests from other sources.

SECTION 106

This section authorizes a project sponsor to recover its construction and operation and maintenance costs, including associated administrative costs, by collection of fees for use of such project. Fees would be established after a public hearing and would reasonably

reflect benefits provided by the project to each class or type of vessel. Fee schedules would be submitted to the Secretary for approval. This section also provides congressional consent to the States for the collection of such fees. It is expected that the States will take necessary actions to allow project sponsors to exercise this authority.

SECTION 107

This section identifies vessels exempt from payment of fees pursuant to this title. Vessels in Government business, national, State or foreign, are exempt. Vessels providing military sealift service and transporting food for humanitarian reasons, such as under "Public Law 480" (Emergency Food Assistance Program), are also exempted, as are vessels engaged in dredging and in intraport movement.

SECTION 108

This section protects the national interest by exempting the various agencies of the Federal Government involved in navigation improvements from the provisions of this act.

SECTION 109

Section 109 establishes the Port and Harbor Improvement Task Force which would make recommendations to the Secretary concerning port and harbor improvement projects. The task force would be made up of the Secretaries (or designees) of the Departments of the Treasury and the Interior; and the Departments of Commerce, Agriculture and Transportation; the Environmental Protection Agency; and 15 members who would represent various regions, as well as project users. This task force would meet at least annually, and would provide user input into the annual program for port and harbor improvement. Task force members appointed by the Secretary would serve for terms of 4 years, except that initial appointments will vary from 1 to 4 years to ensure rotation of membership.

SECTION 110

This section authorizes the Secretary to study the feasibility of constructing new port or harbor improvement projects or the modification and rehabilitation of existing port or harbor projects.

SECTION 111

This section would authorize the Secretary to design, construct, operate, and maintain a port or harbor improvement project if such project is determined to be feasible and justified, and if a project sponsor enters into an agreement pursuant to section 104 of the act.

SECTION 112

Section 112 requires that prior to undertaking any construction authorized by section 111, the Secretary must submit to Congress a

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final environmental statement (if required) and a statement of compliance with the Clean Water Act and the Fish and Wildlife Coordination Act, as well as other applicable statutory requirements. These statements would be completed on an expedited schedule established by the Secretary after consultation with the chairman of the Council on Environmental Quality and other appropriate Federal agencies. Any plan of improvement submitted in accordance with this section would be eligible for construction expenditures unless Congress passes a joint resolution disapproving the environmental impact statement within 180 calendar days of receipt, and the joint resolution becomes law. Any environmental impact statement submitted and not disapproved would satisfy applicable requirements of the National Environmental Policy Act. This section also limits judicial review to expedited hearings for claims against work authorized by this section.

SECTION 113

This section provides for expedited and coordinated review and issuance of required permits for construction of a port or harbor improvement project by a non-Federal public body. This pertains to non-Federal construction of authorized Federal projects. Any work undertaken pursuant to these permits would be at non-Federal expense. The Secretary would initiate proceedings for such review and coordinate the procedure.

SECTION 114

This section specifies navigation facilities which are exempt from provisions of title I. The channels and locks administered by the St. Lawrence Seaway Corporation are exempt as are the inland and intracoastal waterways, except harbors and harbor components.

SECTION 115

This section authorizes 17 channel and harbor projects, at a total cost estimated at $1.3 billion (October 1984). Any recommendations are deemed to include any modifications or recommendations of the Secretary other than recommendations with respect to cost sharing which are inconsistent with the requirements of this title. These projects are:

(1) Savannah Harbor, GA:

Location: Chatham County, GA on the South Atlantic Coast 75 miles south of Charleston Harbor, SC.

Purpose: Deep draft navigation.

Problem: Narrow inner harbor channel results in reduced ship speeds and inefficient navigation.

Recommended plan: Widening of the channel and the existing King's Island Turning Basin.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1981.

Total project cost: $19,175,000.

Benefit/cost ratio: 1.6 to 1 at a discount rate of 8⅜ percent.

(2) Kodiak Harbor, AK:

Location: City of Kodiak on the northeast shore of Kodiak Island in southcentral Alaska.

Purpose: Deep draft navigation.

Problem: Lack of protected mooring space causes inefficiencies and high operating costs for commercial fishing vessels in the Kodiak area.

Recommended plan: Construction of a 1,900-foot long rubble-mound breakwater and a 20-foot deep access channel for protection of, and entrance to, a 45-acre moorage area and a 45-acre protected water area.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in November 1978.

Total project cost: $14,641,000.

Benefit/cost ratio: 1.8 to 1 at a discount rate of 8⅜ percent.

(3) Sacramento River, CA, Deepwater Ship Channel:

Location: Sacramento River in central California from Avon to the Port of Sacramento.

Purpose: Deep draft navigation and recreation.

Problem: Existing 30-foot channel depth and channel widths are inadequate to provide efficient and safe passage of ships.

Recommended plan: Deepening of channel to 35 feet and widening of channel, installation of salinity monitoring stations, authority to construct necessary features for salinity control if necessary, establishment of about 200 acres of wildlife mitigation habitat, and development of 30 acres of recreation facilities.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1981.

Total project cost: $125,300,000.

Benefit/cost radio: 2.3 to 1 at a discount rate of 8⅜ percent.

(4) New Haven Harbor, CT:

Location: North-central shore of Long Island Sound abutting the cities of New Haven and West Haven, CT.

Purpose: Deep draft navigation.

Problem: Existing 35-foot channel and inadequate channel widths result in inefficient and unsafe vessel operation.

Recommended plan: Deepening of existing channel to 40 feet, widening and realignment of channel, construction of new turning basin, and disposal of dredged material in Morris Cove and at the Long Island Sound Central Disposal Site.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in December 1981.

Total project cost: $25,900,000.

Benefit/cost ratio: 2.0 to 1 at a discount rate of 8⅜ percent.

(5) Oakland Outer Harbor, CA:

Location: Oakland Harbor on the eastern shore of central San Francisco Bay.

Purpose: Deep draft navigation.

Problem: Inadequate existing channels result in unsafe and inefficient vessel operation and subsequent higher transportation costs.

Recommended plan: Deepening to a maximum of 42 feet and widening of existing channels and relocation and widening of the turning basin.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in February 1981.

Total project cost: $42,400,000.

Benefit/cost ratio: 2.7 to 1 at a discount rate of 8⅜ percent.

(6) Grand Haven Harbor, MI:

Location: East shore of Lake Michigan at Grand Haven, MI.

Purpose: Deep draft navigation.

Problem: Inadequate channel and turning basin result in unsafe and inefficient vessel operation.

Recommended plan: Deepening of harbor entrance channel and harbor river channel to a maximum of 29 feet and construction of a new and larger turning basin.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in July 1981.

Total project cost: $17,200,000.

Benefit/cost ratio: 1.1 to 1 at a discount rate of 8⅜ percent.

(7) Gulfport Harbor, MI:

Location: Mississippi Sound, 78 miles east of New Orleans.

Purpose: Deep draft navigation.

Problem: Inadequate channel depths and widths result in safety and efficiency problems.

Recommended plan: Deepening to a maximum of 38 feet and widening of existing channel.

Environmental impact statement: Supplemental information to revised draft statement was filed with the Environmental Protection Agency in December 1978.

Total project cost: $78,968,000.

(8) Wilmington Harbor, Northeast Cape Fear River, NC:

Location: City of Wilmington in southeastern North Carolina.

Purpose: Deep draft navigation.

Problem: Need for improved and extended channels to meet expanding port development.

Recommended plan: Deepening to a maximum depth of 35 feet and widening of ship channel and turning basin.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in February 1980.

Total project cost: $9,718,000.

Benefit/cost ratio: 2.4 to 1 at a discount rate of 8⅜ percent.

(9) Gowanus Creek Channel, NY:

Location: Gowanus Creek connects the New York Harbor entrance with the interior of the Borough of Brooklyn, New York City.

Purpose: Deep draft navigation.

Problem: Inadequate channel depths result in navigation inefficiency.

Recommended plan: Deepening of the channel to a maximum of 40 feet.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1982.

Total project cost: $3,230,000.
Benefit/cost ratio: 3.8 to 1 at a discount rate of 8⅜ percent.

(10) San Juan Harbor, PR:
Location: North coast of Puerto Rico at the city of San Juan.
Purpose: Deep draft navigation.
Problem: Inadequate depths and widths result in hazardous and inefficient use of the harbor.
Recommended plan: Deepening to a maximum of 40 feet and widening of a number of harbor channels and features and mitigation for the loss of 22 acres of shallow-bottom habitat.
Environmental impact statement: Final statement filed with the Council on Environmental Quality in August 1976.
Total project cost: $86,334,000.
Benefit/cost ratio: 5.8 to 1 at a discount rate of 8⅜ percent.

(11) Charleston Harbor, SC:
Location: Midway along the South Carolina coast at Charleston, SC.
Purpose: Deep draft navigation.
Problem: Present channel is inadequate to safely and efficiently carry existing traffic.
Recommended plan: Deepening to a maximum of 42 feet and some widening of existing project and mitigation for 10 acres of lost wetland.
Environmental impact statement: Final supplement to final statement was filed with the Environmental Protection Agency in March 1981.
Total project cost: $84,032,000.
Benefit/cost ratio: 1.8 to 1 at a discount rate of 8⅜ prcent.

(12) Brazos Island Harbor, TX:
Location: Southernmost tip of Texas about 5 miles from the Mexican border.
Purpose: Deep draft navigation and recreation.
Problems: Inadequate channel widths and depths cause unsafe and inefficient vessel operation.
Recommended plan: Deepening to a maximum of 42 feet and widening of existing channels, enlargement of turning basin.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1981.
Total project cost: $31,417,000.
Benefit-cost ratio: 1.6 to 1 at a discount rate of 8⅜ percent.

(13) Blair and Sitcum Waterways, Tacoma Harbor, WA:
Location: Tacoma Harbor in Puget Sound in the northwest corner of Washington.
Purpose: Deep draft navigation.
Problems: Blair Waterway is too shallow and narrow at the East 11th Street Bridge to permit safe and efficient ship passage. Sitcum Waterway is presently maintained by local interests.
Recommended plan: Deepening of the Blair Waterway to a maximum of 45 feet and replacement of the East 11th Street Bridge, and assumption of maintenance by the Federal Government of the locally constructed Sitcum Waterway.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in November 1978.

Total project cost: $34,720,000.

Benefit-cost ratio: 2.2 to 1 at a discount rate of 8⅜ percent.

(14) Norfolk Harbor and Channels, VA:

Location: Hampton Roads, VA, and vicinity, Hampton Roads includes the ports of Norfolk, Portsmouth, Chesapeake, Newport News, and Hampton, VA.

Purpose: Deep draft navigation.

Problem: Existing channel depths are inadequate to accommodate larger vessels anticipated for prospective traffic.

Recommended plan: Deepening the existing 45-foot channels to 55 feet, constructing new 57-foot deep channel off Virginia Beach referred to as the Atlantic Ocean Channel, constructing three fixed mooring anchorage areas each capable of handling two vessels simultaneously, deepening the existing 40-foot portion of Elizabeth River and Southern Branch of Elizabeth River to 45 feet, deepening the existing 35-foot portion of Southern Branch to 40 feet up to the Gilmerton Bridge (river mile 17.5) and providing an 800-foot turning basin at that point.

Environmental impact statement: The final EIS was filed with the Environmental Protection Agency on April 3, 1981.

Total project cost: $538,000,000.

Benefit/cost ratio: 3.6 to 1 at a discount rate of 8⅜ percent.

(15) Monroe, Harbor, MI:

Location: Within the city of Monroe, MI.

Purpose: Deep draft navigation.

Problem: Existing channel is inadequate to handle modern ships safely and efficiently.

Recommended plan: Deepening of the river basin portion of the channel to a maximum of 27 feet, deepening to a maximum of 28 feet and widening of the Lake Erie portion of the channel, construction of a new turning basin and a confined disposal facility, and the creation of a marsh for mitigation purposes.

Environmental impact statement: Final statement was filed with the Environmental Protection Agency in March 1981.

Total project cost: $139,400,000.

Benefit/cost ratio: 3.2 to 1 at a discount rate of 8⅜ percent.

(16) Jacksonville Harbor, Mill Cove, FL:

Location: St. Johns River in Jacksonville, FL.

Purpose: Navigation and recreation.

Problem: Shoaling conditions in Mill Cove have been caused by the Federal Jacksonville Harbor navigation project. The shallow depths restrict small boat traffic and adversely affect property values.

Recommended plan: Enlargement of existing opening to Mill Cove to increase flow, construction of diversion structures.

Environmental impact statement: Final statement was filed with the Environmental Protection Agency in August 1981.

Total project cost: $6,575,000.

Benefit/cost ratio: 1.5 to 1 at a discount rate of 8⅜ percent.

(17) Manatee Harbor, FL:

Location: Southern shoreline of Tampa Bay, FL near the entrance to the Gulf of Mexico.

Purpose: Deep draft navigation.

Problem: Locally constructed 40-foot channel is experiencing continued shoaling and existing widths are inadequate for present traffic. Both of these factors contribute to inefficient and unsafe navigation.

Recommended plan: Modification of authorized Tampa Harbor Project to provide for a 400-foot wide by 40-foot deep Federal channel at Manatee Harbor, construction of enlarged turning basin and diked disposal areas, and creation of 10 acres of shallow bay bottom for mitigation purposes.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in September 1979.

Total project cost: $16,115,000.

Benefit/cost ratio: 7.8 to 1 at a discount rate of 8⅜ percent.

TITLE II—OTHER WATER RESOURCES COST SHARING

Title II establishes cost sharing policy for Federal water resource project development. This title increases the non-Federal share of most project costs, and establishes the percentage of project costs which non-Federal interests are to provide and for certain purposes how that share is to be financed. Construction and operation and maintenance provisions in this title do not apply to ports and harbor projects, or to inland waterway projects.

SECTION 201

This section specifies non-Federal cost sharing for project purposes other than navigation. The cost sharing provisions apply to all projects for which physical construction has not been initiated prior to the date of enactment. Physical construction means actual construction and does not include land acquisition. In addition to all operation and maintenance, a project sponsor would provide the following percentages of assigned construction costs during the period of construction, with the exception of flood damage reduction, recreation, hurricane and storm damage, and agricultural water supply which may, in some cases, be repaid with interest over time.

(1) hydroelectric power: 100 percent;
(2) municipal and industrial water: 100 percent;
(3) recreation: 50 percent;
(4) flood damage reduction: 35 percent;
(5) hurricane and storm damage reduction: 35 percent;
(6) agricultural water supply: 35 percent;
(7) fish and wildlife enhancement: 100 percent;
(8) aquatic plant control: 50 percent.

Prior to any construction, the sponsor would enter into an agreement with the United States which specifies rights and duties of each. Such agreement would cover cost sharing and provision for termination or suspension of work in the event of failure to pay the non-Federal share.

Water quality enhancement, beach erosion control, and fish and wildlife mitigation projects would require an assignment of their

costs to project outputs (recreation, storm damage reduction, water supply, etc.) to determine cost sharing.

Federal financing of the non-Federal share of project implementation costs assigned to flood damage reduction, recreation, hurricane and storm damage reduction, and agricultural water supply would be consistent with the inability of the non-Federal sponsor to pay during construction. The determination of the ability to pay as well as any repayment schedule, which could be over the useful life of the project up to a maximum of 50 years, would be made by the Secretary in accordance with procedures established by the Secretary. Repayment of the non-Federal share would include interest charges at Federal borrowing costs as determined by the Secretary of the Treasury. Agricultural water supply is generally the provision of reservoir storage as a source of irrigation water, but may also include provisions for improving the quality of irrigation water downstream of reservoirs; it does not include irrigation works necessary to make use of the storage. This provision does not change the applicability of existing reclamation law to Corps of Engineers projects in the 17 Western States. The cost-sharing provision of this title will govern the Secretary's development of agricultural water supply at all projects undertaken by the Secretary.

SECTION 202

This section requires that all feasibility studies, except studies of inland navigation channels, be cost shared 50/50, with a minimum of one-half the non-Federal share in cash. Requirement of non-Federal participation in feasibility studies will help to ensure that only those studies which enjoy strong local support and which have a reasonable chance of developing implementable plans which are consistent with local priorities move forward. Reconnaissance studies will continue to be funded at 100 percent Federal cost. This cost sharing will apply to feasibility studies initiated after enactment of this act, and to the costs remaining after enactment for a number of feasibility studies initiated in fiscal year 1985 for which sponsors agreed to share a portion of the cost.

TITLE III—PROJECT AUTHORIZATIONS

SECTION 301

This section authorizes for construction by the Corps of Engineers of 37 flood control projects, and three fish and wildlife mitigation projects.

All of the projects authorized in this title are subject to the cost sharing provisions of title II of this act. The total estimated cost of these projects is approximately $2 billion at October 1984 price levels. The Federal cost of any specific project will be less than indicated in this report with the application of the cost-sharing provisions of title II of this act.

The following flood control projects are authorized by section 301(a):

(1) Fountain Creek, Pueblo, CO:

Location: Southeastern Colorado in the city of Pueblo.

Purpose: Flood control, recreation.

Problem: Low-lying areas of the urban residential area of Pueblo are faced with a continuing threat of floods that have the potential to cause substantial damage.

Recommended plan: 5,900 feet of riprap channel and 10,200 feet of levee on both banks of Fountain Creek.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in June 1981.

Total project cost: $8,400,000.

Benefit/cost ratio: 1.1 to 1 at a discount rate of 8⅜ percent.

(2) Lake Wichita, Holliday Creek, TX:

Location: Wichita Falls, TX.

Purpose: Flood control.

Problem: Serious flooding in urban areas below the dam, as well as periodic flooding in commercial and residential areas around the lake.

Recommended plan: Project includes structural measures, including raising and repairing the existing Lake Wichita Dam embankment, constructing a new uncontrolled spillway and excavating an improved channel downstream of the dam to the mouth of Holliday Creek. The plan would provide 100-year flood protection and eliminate the possibility of a major dam failure.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1981.

Total project cost: $27,300,000.

Benefit/cost ratio: 1.7 to 1 at a discount rate of 8⅜ percent.

(3) Town Brook Local Protection, Quincy Coastal Streams, MA:

Location: The Town of Quincy, MA.

Purpose: Flood control.

Problem: Town of Quincy has inadequate protection against flood of record which occurred in 1955 and would today cause $14 million in damages.

Recommended plan: Construction includes a new spillway and outlet on the existing Old Quincy Reservoir and a below ground relief tunnel in the town of Quincy 12 feet wide and 4,000 feet long.

Environmental impact statement: An environmental assessment finding of no significant impact was filed on September 29, 1980.

Total project cost: $26,500,000.

Benefit/cost ratio: 1.2 to 1 at a discount rate of 8⅜ percent.

(4) Eight Mile Creek, Paragould, AR:

Location: Green and Craighead Counties in northeast Arkansas.

Purpose: Flood control, recreation.

Problem: Major floods have occurred in the basin every 4 to 12 years, most recently, in 1973, with damages totaling $12.3 million in 1982 dollars.

Recommended plan: Channel enlargement of Eight Mile Creek and establishment of a green way along one side of the channel.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in February 1981.

Total project cost: $14,950,000.

Benefit/cost ratio: 1.2 to 1 at a discount rate of 8⅜ percent.

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(5) Fourche Bayou Basin, AR:

Location: Saline and Pulaski Counties in central Arkansas, predominantly in the city of Little Rock, AR.

Purpose: Flood control, recreation.

Problem: Inadequate channel capacity of Fourche Creek results in major flood damage to urbanized area of the city of Little Rock. The major flood in 1978 caused $17 million in damages.

Recommended plan: Channel improvement and restriction of future development in the flood plain.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1981.

Total project cost: $30,700,000.

Benefit/cost ratio: 1.9 to 1 at a discount rate of 8⅜ percent.

(6) Cache Creek Basin, CA:

Location: Approximately 90 miles north of the city of San Francisco.

Purpose: Flood control, fish and wildlife enhancement.

Problem: Flooding has repeatedly occurred along the rim of Clear Lake in the Upper Cache Creek Basin, most recently in 1970. Sediment control problems in the Lower Cache Creek Basin result in excess deposits in downstream flood control channels impairing their efficiency.

Recommended plan: Enlargement of Clear Lake outlet channel and addition of a bypass channel for enhanced flood protection and raising levees of the existing settling basin to provide additional sediment storage capacity. Environmental impact statement: Final statement filed with the Environmental Protection Agency in July 1980.

Total project cost: $30,700,000.

Benefit/cost ratio: 1.9 to 1 at a discount rate of 8⅜ percent.

(7) Redbank and Fancher Creeks, CA:

Location: The Fresno-Clovis metropolitan area of Fresno County.

Purpose: Flood control, recreation.

Problem: Because of the inadequacy of the existing flood control reservoir and lack of detention basins, urban flooding in the Fresno area has caused continued problems.

Recommended plan: The existing Big Dry Creek Reservoir dam would be raised; a dam on Fancher Creek would be constructed; and three detention basins would be built.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in November 1980.

Total project cost: $84,100,000.

Benefit/cost ratio: 1.06 to 1 at a discount rate of 8⅜ percent.

(8) Santa Ana River Mainstem, including Santiago Creek, CA:

Location: Southeast of Los Angeles in Orange County and western San Bernardino and Riverside Counties.

Purpose: Flood control.

Problem: Highly developed and urbanized areas of southern California through which the Santa Ana River passes are faced with the potential for unprecedented flood damages should what is called the Standard Project Flood or Maximum Probable Flood occur. Such a flow of water could not be handled by existing flood

protection structures on the river and damages from such an event have been estimated at $14 billion.

Recommended plan: Raise existing Prado Dam 30 feet; construct 23 miles of channels and levees on the Santa Ana River; construct two miles of channel on the Oak Street Drain; and construct a flood retardation basin and 1.7 miles of channel improvement on Santiago Creek.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in August 1981.

Total project cost: $781,000,000.

Benefit/cost ratio: 2.4 to 1 at a discount rate of 8⅜ percent.

Comment: The cited report of the Chief of Engineers recommends construction of a new dam at Mentone, in addition to the other project features. The recommendation of the Secretary includes only the features as described, excluding the dam at Mentone.

(9) Oates Creek, GA:

Location: Augusta, GA.

Purpose: Flood control.

Problem: There is recurring flooding in the urbanized area of the Oates Creek Watershed with average annual damages of $2 million.

Recommended plan: Modify and enlarge 2½ miles of channel, modify 15 bridges and construct a 6-foot high, 1,000-foot long levee.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in August 1981.

Total project cost: $13,472,000.

Benefit/cost ratio: 2.0 to 1 at a discount rate of 8⅜ percent.

(10) Agana River, GU:

Location: Agana, the capital of the Territory of Guam.

Purpose: Flood control.

Problem: The Agana River courses through the main business center of the city and is subject to periodic flooding.

Recommended plan: Construction of 1,700 feet of channel improvement and 4,900 feet of levees.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in December 1978.

Total project cost: $9,080,000.

Benefit/cost ratio: 1.4 to 1 at a discount rate of 8⅜.

(11) Big Wood River and Tributaries, ID:

Location: Lower Wood River Basin in the vicinity of the cities of Gooding and Shoshone, ID.

Purpose: Flood control.

Problem: Periodic flooding has continuously caused damage to the cities of Gooding and Shoshone.

Recommended plan: Construction of a diversion channel and two separate ponding facilities for off-stream diversions of Little Wood River flood flows.

Environmental impact statement: Final statement filed with the Council on Environmental Quality in November 1978.

Total project cost: $4,420,000.

Benefit/cost ratio: 2.5 to 1 at a discount rate of 8⅜ percent.

(12) Rock River at Rockford and Vicinity, IL:
Location: Loves Park, Winnebago County, IL.
Purpose: Flood control.
Problem: There are frequent flood damages due to over-flows from several large and small unnamed creeks.
Recommended plan: Project features include 15,000 feet of concrete channel, 2,500 feet of leavee 5 feet high, a 75,000 gallon/minute pumping plant, and a 90-acre ponding area.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1980.
Total project cost: $27,720,000.
Benefit/cost ratio: 1.2 to 1 at a discount rate of 8⅜ percent.

(13) Des Moines River Basin, IA:
Location: Des Moines River Basin in central Iowa and southwestern Minnesota.
Purpose: Flood control and recreation.
Problem: Severe flooding has occurred in the city of West Des Moines four times in this century.
Recommended plan: Construction of 5 miles of levees and floodwalls.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in July 1979.
Total project cost: $15,340,000.
Benefit/cost ratio: 1.4 to 1 at a discount of 8⅜ percent.

(14) Perry Creek, IA:
Location: Perry Creek Basin in and upstream from the city of Sioux City, IA.
Purpose: Flood control and recreation.
Problems: The city of Sioux City is not protected from flooding similar to the flood of record which occurred in 1949 and would today cause $4 million in damages.
Recommended plan: Channel improvement.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in August 1981.
Total project cost: $18,900,000.
Benefit-cost ratio: 1.5 to 1 at a discount rate of 8⅜ percent.

(15) Redwood River at Marshall, MN:
Location: Southwestern Minnesota 90 miles west of the city of Mankato.
Purpose: Flood control, recreation.
Problems: Existing channels lack the capacity to convey the design flow to the existing diversion channel without damaging overbank and backwater effects.
Recommended plan: Construction includes channel widening, levees, construction of an overflow diversion structure with control and outlet works and recreation facilities.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1981.
Total project cost: $4,283,000.
Benefit-cost ratio: 1.4 to 1 at a discount rate of 8⅜ percent.

(16) Root River Basin, MN:
Location: Southeast of Rochester, MN.

Purpose: Flood control.

Problems: Annual flooding in the basin adversely affects agricultural lands and the community of Houston.

Recommended plan: Construction of 3 miles of levee at the town of Houston and an interior drainage pumping station.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in December 1978.

Total project cost: $8,195,000.

Benefit-cost ratio: 1.8 to 1 at a discount rate of 8⅜ percent.

(17) South Fork Zumbro River, MN:

Location: Rochester, MN.

Purpose: Flood control, recreation.

Problem: Over one-third of the city of Rochester lies in the Zumbro River flood plain. The 100-year flood could cause over $100 million in damages.

Recommended plan: Construction includes deepening and widening the Zumbro River channel, Bear Creek, and Cascade Creek and the construction of two short levees.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1979.

Total project cost: $93,942,000.

Benefit-cost ratio: 1.1 to 1 at a discount rate of 8⅜ percent.

(18) Horn Lake and Tributaries, Tennessee and Mississippi:

Location: De Soto County, MS and Shelby County, TN.

Purpose: Flood control, recreation.

Problem: Frequent flooding in both urban and agriculture areas of the basin.

Recommended plan: Construction of channel improvements to 6 miles of Horn Lake Creek and Cow Pen Creek and channel improvement on 5 miles of Southhaven Creek and Rock Creek.

Enironmental impact statement: Final statement filed with the Environmental Protection Agency in July 1982.

Total project cost: $3,400,000.

Benefit/cost ratio: 2.0 to 1 at a discount rate of 8⅜ percent.

(19) Robinson's Branch, Rahway River, NJ:

Location: City of Rahway and the townships of Clark and Scotch Plains, Union County, NJ, about 10 miles southwest of Newark, NJ.

Purpose: Flood control.

Problem: Area is subject to recurrent fluvial flooding. The last major flood in 1973 caused $1.1 million in damages.

Recommended plan: Construction of channel improvement, levees, and floodwalls in Clark and Scotch Plains; a concrete flume, channel improvement and levees and floodwalls in the city of Rahway.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in December 1978.

Total project cost: $18,320,000.

Benefit/cost ratio: 1.02 to 1 at a discount rate of 8⅜ percent.

(20) Rahway River and Van Winkles Brook, NJ:

Location: Townships of Springfield and Union, Union County, NJ, about 8 miles southwest of Newark, NJ.

Purpose: Flood control.

Problem: Recurrent flooding has occurred in Springfield and Union Townships. The last major flood in 1973 caused $2.5 million in damages.

Recommended plan: Principal features include 6,300 feet of levee; 19,000 feet of channelization; and alterations to 7 bridges.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in November 1978.

Total project cost: $16,938,000.

Benefit/cost ratio: 1.5 to 1 at a discount rate of 8⅜ percent.

(21) Green Brook Subbasin, Raritan River Basin, NJ:

Location: Counties of Somerset, Middlesex, and Union about 15 miles southwest of Newark, NJ.

Purpose: Flood control.

Problem: Recurrent flooding has occurred in the basin, with the most recent major flood in 1973 causing over $84 million in damages.

Recommended plan: Major project features include 80,000 feet of levees; 16,000 feet of stream realignment; 6 pumping stations; and 12 bridge replacements.

Environmental impact statements: Final statement filed with the Environmental Protection Agency in June 1981.

Total project cost: $76,530,000.

Benefit/cost ratio: 1.6 to 1 at a discount rate of 8⅜ percent.

(22) Puerco River and Tributaries, NM:

Location: City of Gallup in McKinley County, in northwestern New Mexico, about 135 miles west of Albuquerque.

Purpose: Flood control, recreation.

Problem: The city of Gallup incurs periodic floods. The most recent major flood in 1972 caused $1.3 million in damages.

Recommended plan: Project features include levee rehabilitation, rock removal, and a new inlet structure.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1981.

Total project cost: $4,160,000.

Benefit/cost ratio: 1.2 to 1 at a discount rate of 8⅜ percent.

(23) Cazenovia Creek Watershed, NY:

Location: West Seneca, in Erie County, NY.

Purpose: Flood control.

Problem: There is recurrent flooding along the urbanized area of Cazenovia Creek most commonly during late winter and early spring when high water combines with ice jams along Cazenovia Creek.

Recommended plan: Construction of a low concrete dam and ice retaining boom.

Envirnomental impact statement: Final statement filed with the Environmental Protection Agency in July 1977.

Total project cost: $3,025,000.

Benefit/cost ratio: 1.1 to 1 at a discount rate of 8⅜ percent.

(24) Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut:

Location: Village of Mamaroneck, Westchester County, NY; and Port Chester, NY, and Greenwich, CN, all northeast of New York City.

Purpose: Flood control.

Problem: The last major flood in the basin in 1975 caused damages of $37.5 million in the Mamaroneck and Sheldrake Basin, and $0.8 million in damages in the Byram River Basin.

Recommended plan: Project features include channel modification, levees, floodwalls, and four bridge replacements.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in April 1981.

Total project cost: $59,960,000.

Benefit/cost ratio: 1.06 to 1 at a discount rate of 8⅜ percent.

(25) Hocking River at Logan and Nelsonville, OH:

Location: City of Logan in Hocking County, OH, city of Nelsonville in Athens County, OH, both about 51 miles above the mouth of the Hocking River.

Purpose: Flood control, recreation.

Problem: There is frequent flooding at both of these urban areas. Estimated annual damages amount to $3,398,000 at Nelsonville and $1,613,000 at Logan.

Recommended plan: Channel modification and levees at Logan and channel widening and floodway construction at Nelsonville.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in June 1981.

Total project cost: Logan—$7,760,000; Nelsonville—$8,020,000.

Benefit/cost ratio: Logan—1.6 to 1 at a discount rate of 8⅜ percent; Nelsonville—3.4 to 1 at a discount rate of 8⅜ percent.

(26) Miami River, Little Miami River, OH:

Location: West Carrollton, Morine, and Miami Townships (7 miles south of Dayton, OH).

Purpose: Flood control, recreation.

Problem: There is periodic flooding of the study area and a need for urban recreation opportunities.

Recommended plan: Project features include 1.1 miles of channel enlargement and replacement of a railroad bridge.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1981.

Total project cost: $6,080,000.

Benefit/cost ratio: 1.6 to 1 at a discount rate of 8⅜ percent.

(27) Muskingum River Basin, OH:

Location: City of Mansfield, OH in Richland County.

Purpose: Flood control, recreation.

Problem: There is frequent flood damage to the city of Mansfield from Muskingum River floods.

Recommended plan: Channel modification at Mansfield.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1979.

Total project cost: $4,256,000.

Benefit/cost ratio: 2.5 to 1 at a discount rate of 8⅜ percent.

Comment: The cited report of the Chief of Engineers recommended levee construction at the city of Killbuck also. However, that

portion of the project is not economically justified at this time, and thus is not proposed for authorization.

(28) Mingo Creek, OK:
Location: Within the city of Tulsa, OK.
Purpose: Flood control.
Problem: Since 1959, nine major floods have been reported on Mingo Creek. In 1970 the largest flood occurred causing $48 million in damages.
Recommended plan: 7.5 miles of channelization, construction of detention ponds, and preservation of 35 acres of bottom land timber.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in June 1981.
Total project cost: $133,000,000.
Benefit/cost ratio: 2.2 to 1 at a discount rate of 8⅜ percent.

(29) Harrisburg, PA:
Location: City of Harrisburg, PA.
Purpose: Flood control.
Problem: Recurring floods in the city have caused repeated damage with the 1972 flood causing $85 million in damages.
Recommended plan: Construction of a dry dam, 3 miles of channelization, and 3,800 feet of floodwall.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1981.
Total project cost: $132,900,000.
Benefit/cost ratio: 1.5 to 1 at a discount rate of 8⅜ percent.

(30) Lock Haven, PA:
Location: City of Lock Haven in Clinton County, PA.
Purpose: Flood control.
Problem: The city of Lock Haven has been subjected to floods 19 times in 130 years.
Recommended plan: Construction of 24,500 feet of levee, 6,500 feet of floodwall, and 4 pumping stations.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in June 1981.
Total project cost: $79,225,000.
Benefit/cost ratio: 1.11 to 1 at a discount rate of 8⅜ percent.

(31) Saw Mill Run, Pittsburgh, PA:
Location: On Saw Mill Run in Pittsburgh, PA.
Purpose: Flood control.
Problem: Existing channel is not able to contain flood flows.
Environmental impact statement: Final statement filed with the Environmental Protection Agency in December 1978.
Total project cost: $7,853,000.
Benefit/cost ratio: 1.0 to 1 at a discount rate of 8⅜ percent.

(32) Buffalo Bayou and Tributaries, TX:
Location: Suburban Houston, TX.
Purpose: Flood control.
Problem: Flooding in urban areas along Cole and Vogel Creeks, tributaries of Buffalo Bayou, and White Oak Bayou upstream from the mouth of Cole Creek.

Recommended plan: Construction includes channel enlargement, rectification and partial paving of 9.2 miles of White Oak Bayou, 4.9 miles of Cole Creek, and 4.5 miles of Vogel Creek to provide Standard Project Flood protection. Nonstructural flood plain management and beautification measures are also included.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in August 1979.

Total project cost: $90,670,000.

Benefit/cost ratio: 1.5 to 1 at a discount rate of 8⅜ percent:

(33) James River Basin, VA:

Location: The James River Basin in the city of Richmond, VA.

Purpose: Flood control.

Problem: Flooding in Richmond in 1960 and 1972 caused a total of $82 million in damages.

Recommended plan: Construction of flood walls and levees on both sides of the James River in downtown Richmond.

Environmental impact statement: Final supplement to final statement filed with the Environmental Protection Agency in July 1981.

Total project cost: $101,200,000.

Benefit/cost ratio: 1.08 to 1 at a discount rate of 8⅜ percent.

(34) Chehalis River, WA:

Location: Cities of South Aberdeen and Cosmopolis, in southwestern Washington.

Purpose: Flood control.

Problem: Recurring flooding of these cities by the Chehalis River. The 1933 flood of record caused damages in current prices of $13 million.

Recommended plan: Construction of 4.7 miles of levees and 5 pumping stations.

Environmental impact statement: Final statement filed with the Council on Environmental Quality in November 1978.

Total project cost: $21,940,000.

Benefit/cost ratio: 1.3 to 1 at a discount rate of 8⅜ percent.

(35) Yakima Union Gap, WA:

Location: Yakima County, WA.

Purpose: Flood control.

Problem: Periodic flooding on Yakima River flood plain, most recently in 1975 and 1977. Average annual damages are $1.2 million.

Recommended plan: Raising of existing levees.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1981.

Total project cost: $9,323,000.

Benefit/cost ratio: 1.6 to 1 at a discount rate of 8⅜ percent.

(36) Metropolitan Denver and South Platte River and Tributaries, CO:

Location: South Platte River, 80 miles southwest of Denver.

Purpose: Flood control.

Problem: Flooding on Westerly Creek has occurred in 14 different years since 1942. The existing Kelly Road Dam no longer provides adequate protection. This is due, in part, to extensive development in the Denver-Aurora area which has greatly increased

runoff, and to the age and unsafe condition of the dam which must be operated to allow some overtopping to prevent failure.

Recommended plan: Kelly Road Dam would be modified for safety purposes. A new dam would be constructed on Lowry Air Force Base and a small amount of channelization would be placed upstream of the new Lowry Dam.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in May 1981.

Total project cost: $10,563,000.

Benefit/cost ratio: 1.4 to 1 at a discount rate of 8⅜ percent.

(37) Indian River County, FL:

Location: East central coast of Florida midway between Jacksonville and Miami.

Purpose: Flood control/Shore protection.

Problem: Beach Erosion of shore fronting city of Vero Beach and along Sebastian Inlet State Park.

Recommended plan: Restoration of 1.7 miles of beach at Vero Beach and 1.7 miles of beach at Sebastian Inlet State Park.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in June 1981.

Total project cost: $4,934,000.

Benefit/cost ratio: 2.3 to 1 at a discount rate of 8⅜ percent.

The following fish and wildlife mitigation projects are authorized by section 301(b):

(1) Fish and Wildlife Program for Sacramento River Bank Protection Project, California, First Phase:

Location: Sacramento, CA.

Purpose: Fish and wildlife mitigation.

Problem: Acquisition of lands for mitigation of fish and wildlife losses associated with the first phase of the Sacramento River Bank Protection Project was not originally authorized.

Recommended plan: Acquisition of 260 acres of land for mitigation.

Environmental impact statement: Final statement of the overall project which described the need for this mitigation was filed with the Council on Environmental Quality in June 1973.

Total project cost: $1,415,000.

Benefit/cost ratio: Not applicable.

(2) Davenport, IA:

Location: At Nahant Marsh, a natural wetland which is located near the already authorized Federal flood protection project for the city of Davenport, IA.

Purpose: Fish and wildlife mitigation.

Problem: The Corps of Engineers flood control project which is authorized for Davenport, IA, will have adverse effects on the Nahant Marsh, a unique wetland which is presently used for wildlife study. The flood control project would prevent the wetland from being periodically inundated by the Mississippi River and consequently destroy its wetland characteristics.

Recommended plan: Acquisition and preservation of approximately 163 acres of marshland and the construction of structures to regulate water levels and floods into the marsh.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in March 1978.

Total project cost: $497,000.

Benefit/cost ratio: Not applicable.

Comments: Construction of the already authorized Federal flood control project at Davenport, IA, is contingent on the authorization of this mitigation plan.

(3) Smithville Lake, Little Platte River, MO—Plan for Replacement of the Trimble Wildlife Area:

Location: The Missouri River flood plain about 20 miles east of Kansas City, MO.

Purpose: Fish and wildlife mitigation.

Problem: Smithville Lake inundates a portion of the Trimble Wildlife Area formerly operated by the Missouri Department of Conservation thereby making the area unsuitable for the type of management the Department has established.

Recommended plan: Acquisition of 2,610 acres to replace the Trimble Wildlife Area.

Environmental impact statement: Final statement filed with the Environmental Protection Agency in September 1978.

Total project cost: $7,870,000.

Benefit/cost ratio: Not applicable.

TITLE IV—PROJECT PROVISIONS

SECTION 401

This section would deauthorize a modification to Lake Brownwood, Pecan Bayou, TX. The modification was an earth fill embankment, and modifications to the outlet works and spillway in the interest of dam safety. Since the States and dam owners are responsible for the safety of non-Federal dams, and local interests have accomplished the authorized work, the authorization is no longer necessary.

SECTION 402

This section authorizes additional appropriations necessary to complete all construction of comprehensive river basin plans for flood control, navigation and other purposes in each of 28 river basins which are presently subject to limits on the amount of funds that can be appropriated.

This legislation would eliminate the need for yearly consideration by the President and Congress of river basin monetary authorization legislation. It is not intended to diminish congressional oversight for the Army Civil Works Program, but rather, to promote efficiency in the exercise of that oversight function.

Beginning with the Flood Control Acts of 1928 and 1936, Congress authorized certain basin and project plans for construction, subject to limitations on the amount of funds that could be appropriated for the plans in each basin. Today a total of 28 basins are subject to monetary limitations. In past years, Congress has had to enact river basin monetary authorization legislation to raise these limits on an annual basis and occasionally, as in 1977, twice in 1 year. In 1978, failure to pass such legislation disrupted schedules

on several projects and required suspension of on-going contracts on others. This resulted in significant cost increases for the Federal Government and serious hardships for construction workers who were laid off during the suspension of work on the projects. In addition, the delays placed an administrative burden on the Army Civil Works Program, as project schedules based on actual appropriations by the Congress were repeatedly disrupted.

The river basin monetary limits no longer serve a useful oversight function. Since the passage of the Congressional Budget and Impoundment Control Act of 1974, the authorization committees of both Houses of Congress have developed procedures to provide for annual review of the entire Army Civil Works Budget. These annual reviews of the overall Civil Works Program remove the need for periodic review of that portion of the program subject to river basin monetary authorization limits. The annual review and subsequent appropriations have resulted in appropriations for several of these basins which exceed the monetary authorization, thus rendering the authorized limitations meaningless.

SECTION 403

This section would permit the sale of water from the Washington Aqueduct directly to authorities in the State of Maryland in a manner similar to the presently authorized sale of water to Virginia communities. It would also permit the Washington Aqueduct to purchase water from Maryland authorities when necessary to meet emergency conditions. Such authorization would allow the construction of a major new interconnection between the two largest water utilities in the Washington Area, the Washington Aqueduct Division [WAD] and the Washington Suburban Sanitary Commission [WSSC]. This type of interconnection has been recommended in several studies in order to provide for mutual assistance between Washington area utilities in times of crisis. The WSSC would finance construction of all pipelines and pumping stations required.

The Washington Aqueduct provides water to Washington DC, via the District of Columbia Water system. Under sections 43–1540 and 43–1541 of the District of Columbia Code, the Aqueduct is also authorized to deliver water to Arlington County, Falls Church, and any other competent State or local authority in the Virginia metropolitan area. The sales to the Virginia systems are discretionary. That is, they must be acceptable to the Secretary and may be terminated at any time. The receipts from the sales are deposited in the District of Columbia's Water and Sewer Enterprise Fund.

Current customers of the regional Washington Aqueduct would be protected in two ways. First, a new sales agreement could only be entered into upon the recommendation of the Chief of Engineers. The Chief could use this avenue to ensure that the existing customers are not affected adversely by the new sales. In addition, the bill would authorize the Senate to revoke a water sales agreement at any time. The Secretary could use this authority to protect the Aqueducts current customers during an emergency.

The proposal would permit the Washington Aqueduct to purchase water from Maryland and Virginia water systems that are interconnected with it. This would help to ensure that efficient

water is available for Aqueduct customers during emergency situations.

SECTION 404

This section would increase by $6,667,000 the amount of Federal funds available for rehabilitation of the Illinois-Mississippi Canal. By a series of agreements between the State of Illinois and the Federal Government, the canal was turned over to the State in 1970, for use as a parkway. As part of the transfer, Public Law 85-500 specified rehabilitation work to be completed by the Corps. The work started in the 1960's and continued until 1974 when it was suspended awaiting the outcome of a law suit. A total of $8,528,000 has been authorized to be spent on the rehabilitation work. The Illinois Department of Conservation has recently completed a master plan for the parkway which includes a rehabilitation work consistent with work authorized to be done by the Federal Government. At current price levels (October 1984) it is estimated that a total authorization of $13,195,000 would be required to complete the rehabilitation work by the Corps.

SECTION 405

This section would relocate the present navigation channel boundaries in City Waterway, Tacoma Harbor, WA. The city of Tacoma requested the change in boundaries to enhance boating opportunities and marina development consistent with the city's plan. The full project dimensions are no longer needed for waterway uses.

This provision eliminates the navigational servitude over portions of the City Waterway in Tacoma, WA. This action will allow several small boat marinas in the waterway to continue to lease space without the need for certain bonding requirements. Federal control over those portions of the waterway will be ended, eliminating any cloud over the title.

TITLE V—GENERAL PROVISIONS

SECTION 501

This section pertains to hydroelectric power facilities to be constructed in conjunction with a corps project. The Secretary would be required to consult with the Secretary of Energy concerning delivery of power generated as a result of such hydropower facilities to be constructed for a project sponsor. The sponsor would pay 100 percent of the cost of the hydropower facilities as required by title II of the act. In return, the sponsor would receive power in excess of project requirements for a period of up to 50 years.

SECTION 502 AND 503

Sections 502 and 503 both provide authority for the corps to design and construct new or additional hydropower generating facilities at corps dams where the facilities were not originally authorized. Most hydro projects can be planned, constructed, and operated by non-Federal interests under the FERC procedures. How-

ever, the corps should be directly involved in planning, design, and construction of hydroelectric facilities at its dams whether the power is developed by the corps or non-Federal interests. Such involvement would assure that hydropower development is compatible with authorized purpose of the Federal project and the structural integrity of the project is maintained. Both sections 502 and 503 address development of hydropower facilities at corps projects.

Section 502 authorizes the Secretary of the Army, acting thrugh the Chief of Engineers, subject to the requirements of sections 201 and 202 of this act, to plan, design, construct, operate, and maintain hydropower generating facilities at any water resources development project of the Department of the Army, when the Secretary determines development by a FERC licensee is not advisable. Only in cases where non-Federal development of hydropower potential at an existing corps project is impractical because of physical, legal, competing use, institutional, environment, or economic reasons, would the corps develop the hydropower as a Federal project with non-Federal financing. In those cases where non-Federal development of hydropower at a corps project under a FERC license is practical, section 503 would allow planning, design, and construction by the corps if requested by the FERC licensee. This would serve the best interest of the taxpaypers by combining Federal expertise with non-Federal financing to accomplish sound hydropower development. In addition, where appropriate, joint construction of the power facility and the corps project would be more efficient and cost effective, especially with regard to power-on-line date.

Before undertaking any work pursuant to section 502, the Secretary must enter into a binding agreement with a non-Federal interest which describes the nature, extent, and financing of the work and the respective rights and obligations of the United States and the non-Federal interest. Authorization of hydropower development pursuant to this section will not preclude development of hydroelectric power at corps projects pursuant to the Federal Power Act. Development by FERC licensees will continue to be encouraged in all but a few cases where it would be desirable for Federal development.

Section 503 provides for the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct, on behalf of non-Federal interests, hydroelectric power generating facilities at authorized development projects of the Department of the Army where hydropower is not authorized and to contract for such work with funds made available by non-Federal interests for such planning, design, and construction. This would be most advantageous to both Federal and non-Federal interests when the corps project and the licensees power facility can be constructed at the same time.

Before undertaking any work pursuant to section 503, the Secretary must enter into a binding agreement with the non-Federal interest describing the nature, extent, and financing of the work and the rights and obligations of the United States and non-Federal interest. Non-Federal interests are responsible for operation and maintenance after completion, for operating facilities in a manner

which will not interfere with authorized purposes of the Federal project, and for obtaining a FERC lincense, where required.

In summary, the authorities provided in these two proposals, in combination, would promote the efficient utilization of hydropower resources at corps projects, with assurance that the operational and structural integrity of the project is maintained. At the same time, this development would be accomplished through non-Federal financing of project costs.

SECTION 504

This section would amend section 221 of the Flood Control Act of 1970 to provide that where a State enters into a local cooperation agreement, the agreement may reflect that it does not obligate future legislative appropriations.

Section 221 prohibits the Corps of Engineers from initiating construction on any water resources development project until each of the project's non-Federal sponsors has entered into a legally-enforceable written agreement with the Secretary of the Army "to furnish its required cooperation for the project." In other words, each local sponsor must agree to provide its share of the funding of the project. Because of the large amounts of money involved, the locals must be capable of binding themselves to financial obligations that extend over a number of years. This poses a serious problem for States which have statutes or constitutional provisions that prohibit State officials from negotiating agreements that would obligate future State legislatures to appropriate funds. Since 1970, when Congress enacted section 221, the Department of the Army has discovered that a number of State agencies are subject to legal restrictions which prohibit them from entering into any agreement that would obligate future State legislatures to appropriate funds.

The legislative history of section 221 indicates that Congress expected the section to encourage States, having constitutional or statutory provisions that prohibit the obligation of future revenues, to amend those provisions so that they could enter into fully binding and legally enforceable local cooperation agreements as required by section 221. However, to date, no State has done so. Instead, a number of potentially beneficial water resources development projects have languished. On the one hand, section 221 requires State agencies to unequivocally commit their State legislature to appropriate needed revenues. On the other hand, the performance of the Federal Government is conditioned on future congressional appropriations.

The Department of the Army believes that the proposed legislation will resolve the current impasse without vitiating the essential protective features of section 221.

The proposed legislation would also serve a second purpose. It would repeal section 221(e) of the Flood Control Act of 1970. That subsection requires the Secretary of the Army to maintain a continuous inventory of the status of all section 221 cooperation agreements and to report to Congress annually thereon. While the corps would continue to maintain an inventory of all agreements, reporting to Congress no longer serves a useful purpose as it once did in the early years after section 221 was enacted.

SECTION 505

This section would authorized the U.S. Army Corps of Engineers to continue certain advance engineering and design of water resources development projects prior to their authorization for construction, where the Secretary of the Army has already submitted a favorable report on the projects to Congress.

The planning and design of water resources development projects by the Army Corps of Engineers has traditionally involved work undertaken in a number of stages prior to actual physical construction of the project. Typically, Congress first authorizes the corps to conduct a study of a particular water resource problem or proposal. The corps then prepares the study, sometimes in more than one phase, and, if it determines that a plan of improvement is economically feasible and environmentally sound, the corps recommends the plan in a report submitted to Congress. The report is ordinarily in sufficient detail to provide Congress with the information needed to make a determination on whether to authorize construction, but it does not involve any detailed engineering and design of the plan of improvement. Such advance engineering and design [AE&D] in the past was undertaken only after Congress actually authorized the project for construction.

Since 1981, Congress has allowed funding of "detailed studies and plans and specifications" of water resources development projects of the Department of the Army out of the general investigations account of the Department's annual Civil Works appropriations measure. This has permitted the Corps of Engineers to continue AE&D on projects for which a final report has not yet been submitted to the Congress. In some cases involving broad study authorizations, the corps can submit an interim report, covering a portion of the study area and continue with AE&D while awaiting action on that recommendation. This is not possible where a final report has been submitted to the Congress since transmittal of a final report terminates the Corps authority to undertaken any further study of a project.

The proposed legislation would allow preconstruction advance engineering and design on projects for which the Secretary of the Army has already submitted final feasibility reports. If a report recommends implementation of the project, and if the Secretary of the Army determines that continuation of project planning is in the public interest, the Corps of Engineers may initiate advance engineering and design of the project.

SECTION 506

This section would amend section 12 of the Water Resource Development Act of 1974, which provides a procedure for deauthorization of projects. This proposal would amend section 12 in five respects. First, the proposed amendment would clarify that the section could be applied to separable increments of projects and not just total projects. This would allow the elimination of unneeded segments of otherwise viable projects. Second, with this amendment, the Secretary, acting through the Chief of Engineers, would use the same discount rates and evaluation procedures in effect for formulation of water resources projects at the time of reevaluation

in deciding whether or not a project should be submitted for deauthorization. This would permit inclusion on the list of projects all unconstructed projects which do not meet current standards and policies, regardless of original authorization date. Third, the proposal would modify the deauthorization process to eliminate current committee veto provisions. This provision would provide that any project would be deauthorized after 90 calendar days of continuous session of Congress unless Congress takes action otherwise. Fourth, the proposal includes a provision for automatic termination of study authorization for which no funds have been expended for 5 consecutive fiscal years. Finally, the proposal includes a provision making section 12 deauthorization procedures applicable to completed projects which are federally operated and maintained where continuation of such effort is not longer in the public interest.

The proposed changes will significantly improve the efficiency of the section 12 deauthorization process in identifying authorized projects which are no longer needed or are not justified by todays standards. It will help to reduce the corps current backlog of an undertermined number of studies and approximately 400 authorized Civil Works projects plus an undetermined number of separable elements of projects for which no funds have been appropriated for at least 8 years. These are studies, projects, and separable elements which have little or no chance of producing projects or viable solutions to problems perceived years ago.

SECTION 507

This section would amend Public Law 92-367, section 5 paragraph (1) to authorize the Corps of Engineers to maintain and update the National Inventory of Dams. The original legislation authorized compilation of the inventory, but was silent on its maintenance. To be of continuing benefit, the inventory must be maintained and updated. The legislation would allow the Corps of Engineers to maintain the computerized data bank and to periodically publish and distribute the inventory and appropriate addenda. Individual States would continue to be responsible for the data collection and submission to corps offices. Coordination will be maintained with all Federal agencies responsible for funding and/or constructing dams.

SECTION 508

This proposal would abolish the California Debris Commission and its authority to regulate hydraulic mining. The Commission's remaining navigation and flood control responsbilities would be transferred to the Corps of Engineers. In addition, all of the Commission's assets and liabilities would be transferred to the corps. The corps would be authorized to retain all real property interests presently under the Commission's jurisdiction and to take such actions as are necessary to consolidate holdings and perfect title. These real property interests are needed for the continued operations of existing Commission projects.

The Commission's three members must be officers of the Army Corps of Engineers and are appointed by the President with the

advice and consent of the Senate. Originally, the Commission's primary responsibility was to control the vast amounts of soil and other debris which were then being released into California rivers and streams by miners employing the hydraulic method of gold recovery. Between 1853 and 1909, hydraulic mines poured over 1.5 billion cubic yards of debris into California water. The debris interfered with navigation and frequently caused flooding. The California Debris Commission was authorized to regulate hydraulic mining via permits—no company could engage in such mining unless it (1) provided an effective way to store its own debris and (2) obtained a permit from the commission.

Hydraulic mining has become uneconomical, and the industry has collapsed. It is not anticipated that any new permits will be issued in the foreseeable future. Thus, there is no need for a separate commission to process permits. Furthermore, should the need arise, such activities would be subject to adequate Federal regulation via the permit requirements of section 10 and 13 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403, 407) and sections 402 and 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1342, 1344).

But, while the California Debris Commission no longer has a meaningful role to play with respect to the regulation of hydraulic mining, it continues to perform a valuable supervisory role with respect to several existing navigation and flood control projects. The Commission's remaining supervisory responsibilities in this area should be transferred to the Corps of Engineers.

SECTION 509

This section would amend section III of the River and Harbor Act of 1968 (33 U.S.C. 426i) to allow implementation of nonstructural measures to mitigate shore damage attributable to corps navigation projects.

In order to promote shore conservation and the equitable treatment of the owners of shoreline property, Congress enacted section III of the River and Harbor Act of 1968. That section authorizes the Secretary of the Army to investigate, study, and construct projects for the prevention of mitigation of shore damages attibutable to Federal navigation works. The authority is discretionary. The Federal Government now bears the entire cost of installing, operating, and maintaining the projects. Furthermore, if the estimated first cost of any project exceed $1,000,000 specific congressional authorization is required.

In the exercise of this discretionary authority, the Secretary has discovered several instances where nonstructural measures could accomplish the stated goals of section 111 at less cost to the Federal Government. In addition, such nonstructural measures could prove to be more environmentally sound over the long run than the construction of shore protection projects.

Under the proposed amendment, the Secretary would be authorized to acquire shoreline property or an interest in real property associated with a shoreline. Such acquisition would only be undertaken after a feasibility study has been completed. The study process would include coordination with Federal agencies including the

Federal Emergency Management Agency, and other interests. Since the Secretary would be under no legal obligation to acquire the property, and since the property would not be needed to complete Federal navigation projects, it is anticipated that the Secretary would acquire the property by voluntary purchase rather than through the power of eminent domain. In addition, a non-Federal public body must agree to share the initial cost in the same proportion as cost sharing for the project causing the shore damage and operate and maintain the real property or interest in real property for a public purpose, on terms and conditions deemed satisfactory to the Secretary and in accordance with regulations prescribed by the Secretary. Normally, the Federal Government would retain all property rights even though the local sponsor is operating and maintaining the property. But where the sponsor is prohibited by law from operating or maintaining real property unless they possess an interest in it, the "terms and conditions" clause would enable the Secretary, at his discretion, to enter into a long-term lease with the sponsor.

SECTION 510

This section would amend section 19 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1154, 33 U.S.C. 414) and section 20 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1154, 33 U.S.C. 415) to provide that the operator, owner, lessor, or lessee, associated with a wreck either singularly or collectively shall reimburse the United States for any expenses related or incidental to the removal and salvage, including storage. Any money received from such reimbursement or from the sale or disposition of any such wreck shall be deposited into the general fund of the Treasury of the United States. Currently, the corps' costs of removal can only be offset by the salvage value of the wreck which, in the case of abandoned vessels, is usually less than the cost of removal.

SECTION 511

This section would authorize the sale of hopper dredges in storage as well as spare parts.

The corps of Engineers has in floating storage 11 hopper dredges which have been retired in accordance with Public Law 95–269. In addition, spare parts for these dredges occupy valuable warehouse and yard storage space at a number of locations. These dredges are almost all obsolete and since little or no attempt was made to preserve them when laid up, most have deteriorated to the point that rehabilitation costs may exceed their present value. The dredges and their spare parts cannot be disposed of without congressional authorization.

Legislation which established the program for retirement of the old corps dredges and the minimum fleet concept did not provide for the eventual disposal of the surplus dredges. In fact, it indicated that future congressional action would address this point. No provision was made for costs associated with preserving the old dredges or for their storage. The storage costs are being absorbed by the projects on which the remainder of the corps fleet works and little or no work was done to preserve the old dredges. The

storage costs are substantial and the space occupied by spare parts and patterns is needed for the existing fleet and other uses.

SECTION 512

This section would amend 10 U.S.C. 3036, which currently authorizes the Chief of Engineers to provide planning, design, and construction services to other Federal departments, agencies, or instrumentalities, to allow the corps to provide such services to non-Federal public entities on a reimbursable basis.

The corps has undertaken work for others under a number of different authorities. The Economy Act (31 U.S.C. 1535) authorizes the head of any Federal agency to provide goods and services to other Federal agencies where such goods and services cannot be provided as conveniently and as cheaply by a commercial enterprise. Additionally, the corps has specific authority under 10 U.S.C. 3036 to provide services to other departments, agencies, and instrumentalities of the United States, including authority to provide such services by contract. Pursuant to these authorities, the corps has undertaken planning, design, and construction work for other Federal agencies. The corps authority to undertake work for non-Federal public entities is contained in the Intergovernmental Cooperation Act (42 U.S.C. 4421 *et seq.*) which authorizes Federal agencies to provide "specialized and technical services" to states and political subdivisions on a reimbursable basis when the agency has a particular expertise which is not reasonably and expeditiously available through ordinary business channels. This authority has generally been interpreted as not providing authority to undertake actual construction work.

The authority to undertake construction work for non-Federal public entities on a reimbursable basis would allow the corps to provide a valuable service to the Nation at no cost to the Federal Government. The corps is able to provide a worldwide capability for all aspects of construction management which has been exemplified by integrity and efficiency. Obtaining authority to undertake construction work for non-Federal public entities would further enhance the corps military capability by ensuring a well trained and experienced work force in the event of mobilization.

SECTION 513

This section would authorize the Chief of Engineers to modify navigation project channel dimensions at the channel entrances, bends, sidings, and turning places after the project becomes operational.

While the Corps of Engineers has solved the problem of designed navigation channels on straight reaches of waterway, it is only through actual operation of the project that it is possible to determine with precision, the exact dimensions required for the safe passage of vessels at the entrances, bends, sidings, and turning places. Section 5 of the River and Harbor Act of March 4, 1915, provides for these type adjustments while the project is in the planning, design, and construction stage but makes no provision for modification after construction is completed. Presently, the only

means available to modify the project is through the lengthy process of obtaining enabling legislation.

SECTION 514

This section would increase the single project limits on several of the continuing authorities. Existing legislation limits on the costs of projects to be implemented under the Continuing Authority Programs are now more restrictive than when they were set by legislation. It is proposed to raise the single project cost to those shown below. This is justified by normal cost increases and other effects since Congress last authorized increased cost limitations.

	Proposed limit	Existing limit
Section 208 of the Flood Control Act (snagging and clearing for flood control)	$500,000	$250,000
Section 14 of the Flood Control Act of 1946 (streambank and shoreline protection of public works)	500,000	250,000
Section 205 of the Flood Control Act of 1948 (small flood control)	4,500,000	4,000,000
Section 107 of the River and Harbor Act of 1960 (small navigation)	3,500,000	2,000,000
Section 3 of the Act of August 13, 1946 (Public Law 79–727) (small beach erosion control)	3,000,000	1,000,000

SECTION 515

This section would amend section 14 of the act of March 3, 1899 to provide specific authority for the corps to approve alteration or use of navigation and flood control improvements where the Secretary of the Army determines that such use would be in the public interest and will not impair the usefulness of the work constructed by the United States. The corps has been asked to approve non-Federal construction in a number of instances where the proposed improvement would benefit the local economy without impairing the effectiveness of the structure built by the United States. Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408) declares it to be unlawful for any person to alter or make use of any improvement built by the United States for navigation or flood control. The section does allow the corps to approve occupation or use where such occupation or use is temporary and not "injurious to the public interest." However, the corps lacks the authority to approve any construction, alteration, or use when the activity will result in a permanent alteration or improvement of the structure built by the United States.

SECTION 516

This section improves the ability of the Secretary to utilize the resources of the Corps of Engineers in time of war or national emergency. The civil works resources of the corps constitute a valuable reserve capability that would be used to meet mobilization construction requirements in times of extreme national need. This section enables the Secretary to draw upon those civil works resources when required during war or national emergencies.

Subsection (a) authorizes the Secretary to free civil works resources, including funds, personnel, and equipment, from projects not essential to the national defense and to apply those resources to authorized civil works, military construction, and civil defense

projects critical to the national defense. Under this authority the Secretary could, for example, terminate work on a recreation facility and utilize the newly freed funds and personnel to construct barracks for mobilized reserve units. This authority would be available only in two very limited situations: in time of war declared by Congress, or in time of national emergency declared by the President in accordance with the National Emergencies Act. The National Emergencies Act provides that the President may invoke and use emergency authorities only when he declares a national emergency, notifies Congress of his action, publishes his declaration in the Federal Register, and specifies, either in this declaration or in a subsequent executive order, which emergency authorities he intends to use. Subsection (a) of the proposal further specifies that the threat leading to the declaration of national emergency must be military in nature; national emergencies dealing with economic or other nonmilitary crises would not trigger the authorities provided here. This subsection does not provide authority to construct any project not otherwise authorized by law.

Subsection (b) requires the Secretary to notify the appropriate congressional committees immediately upon exercising the authorities provided by subsection (a). In addition, this subsection specifies that those authorities shall cease to be exercised not later than 180 days after the termination of the state of war or national emergency that led to their invocation.

SECTION 517

This section would require the Corps of Engineers to acquire justified separable fish and wildlife mitigation lands, concurrently with acquisition of project lands. This requirement would apply to any project for which mitigation has been authorized, and would assure that mitigation measures are provided concurrent with the need.

SECTION 518

This section amends the act of September 22, 1922 to increase from $100 to $50,000 the penalty for failure to provide statements relative to vessels, passenger, freight, and tonnage as required by the Secretary. It also allows the Secretary to assess a civil penalty of up to $25,000 for failure to provide information as required by the act.

SECTION 519

This section amends the act of June 13, 1902 which allows for non-Federal interests to construct improvements on navigable waters, subject to approval of the Secretary, but prohibits charging tolls for the use of those improvements. This amendment would allow non-Federal interests to collect tolls to recover non-Federal costs pursuant to title I of the act.

SECTION 520

This section would remove the prohibition preventing the Secretary from collecting entrance fees at Corps of Engineers project

recreation lands and facilities. The administration will propose generic legislation amending the Land and Water Conservation Act to establish entrance fees at federally operated recreation areas.

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